

INSTRUCTION NO. 12A
Unfair or Deceptive Act

In order to prove that defendants engaged in an unfair or deceptive act or practice, it is sufficient to show that the act or practice had the capacity to deceive a substantial portion of the public. Plaintiffs do not need to show that the act or practice was intended to deceive. You may presume that Defendants engaged in an unfair or deceptive act or practice if you find that defendants adopted their marks knowing them to be similar to plaintiffs' marks.

INSTRUCTION NO. 12C

Public Interest

I instruct you that defendants' infringing conduct affected the public interest and that this element is satisfied.

Unless you find that a portion of defendants' profits are attributable to factors other than use of plaintiffs' trademark or trademarks, all the profits are to be attributed to the infringement. The burden is on defendants to demonstrate the portion of their profits, if any, demonstrably not attributable to infringement.

INSTRUCTION NO. 14
Damages - Mitigation

DELETED IN ITS ENTIRETY - REMAINDER OF THE INSTRUCTIONS
RENUMBERED ACCORDINGLY

ATTACHMENT